

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

ANSWER:

No.

REASON:

The reference provision of the public school laws, 20 M.R.S.A. §217, does not expressly answer the question presented for determination. The statute decrees only that a request be made for conveyance of school property; and that, thereupon, the conveyance shall be made.

It is noted that 20 M.R.S.A. §222 prescribes procedure for dissolution of school administrative districts. The section refers to a 'dissolution agreement'. It is the duty of the State Board of Education to prepare such an agreement for submission to the voters of the district. The Legislature has granted to the State Board of Education full authority to prepare said agreement. If a town has conveyed its school property to a school administrative district upon condition that such property shall revert to the municipality in the event that the property is no longer used for school purposes, then such school property is being returned pursuant to the instrument of conveyance rather than the dissolution agreement. The question which would then arise would be: Whether the dissolution agreement could legally recognize this situation so as to maintain the equities between the participating units.

In 20 M.R.S.A. §307, school directors of a school administrative district are authorized to dispose of real property by selling such property and building "to the town where the same is located at a mutually acceptable price without advertising; *provided the school administrative district had assumed no indebtedness or lease obligation on account of said property.*" (Our emphasis) Assume that the desired conveyance is made in the instant case and assume, also, that the district accedes to the indebtedness regarding the property. It seems somewhat inconsistent to say that such property may someday revert to the town wherein the property is located, by operation of law, but that the same property may not be transferred to such town at a mutually agreeable price.

The member municipalities in a school administrative district should transfer whatever title they possess in the school property to the district as is provided by the reference statute.

JOHN W. BENOIT
Assistant Attorney General

April 7, 1965
Maine State Police

Major Parker Hennessey, Deputy Chief

Children Running Off From the Training Centers

You have asked the opinion of this office relative to the authority of the State Police to apprehend and return runaways from Juvenile Training Centers.

The portion of the Statute determinative of the answer to your question appears in brackets below and was not discovered by this office until after talking with you by

telephone because of the misleading title to the section, R.S. 1964, T. 34, §133, formerly, R.S. 1954, c. 27, §10.

“ §133. AIDING ESCAPE.

Whoever induces, aids or abets anyone committed to any state institution in escaping therefrom or from the custody of the Department of Mental Health and Corrections or the Department of Health and Welfare or who knowingly aids, harbors or conceals in any way anyone who has escaped therefrom, or who elopes with or marries a female committed to the custody of the said departments of any state institution without the consent of the department in custody of the person shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

[“It shall be the duty of any sheriff, deputy sheriff, constable, police officer or other person finding any fugitive from any of said institutions at large to apprehend them without a warrant and return said fugitive to the institution from which the escape was made or to any officer or agent of the department. Such officer shall be paid a reasonable compensation by the State for his services.”]

This section is the only provision relating to escapes from State institutions, other than the State Prison and the Reformatories, and includes the State hospitals, the Pineland Hospital and Training Center and the Juvenile Training Centers. It is our view that the State Police, Sheriffs' Departments, etc., in carrying out their duty to maintain law and order are to assist in the location of all of such escapees, whether patients from the State hospitals or children committed to the training centers, and that once located, the police shall apprehend and return such persons without a warrant, to the institutions from which they escape.

This office did not make a ruling as such for the District Court in Augusta; it is not our function to do so, however, the Judge of the District Court and I, expressed the opinion that the girls who escaped from the Stevens Training Center had not committed a criminal offense under the General Escape Statute, R.S. 1964, T. 17, §1405, formerly, R.S. 1954, c. 135, §28. This Statute is subject to interpretation and may be differently interpreted by a County Attorney faced with a similar situation who may wish to attempt prosecution.

In any event, we are of the opinion that it is a police function to assist in the location of escapees from the training centers as part of the maintenance of law and order, and that the Statute before cited which is clear and unambiguous, and not subject to interpretation makes mandatory the apprehension and return of escapees from the Juvenile Training Centers, without a warrant.

COURTLAND D. PERRY
Assistant Attorney General

May 24, 1965
Forestry

Austin H. Wilkins, Commissioner

Removal of sunken logs from Great Ponds and Streams

FACTS:

Several inquiries have been made concerning the right of an individual to remove